

Permitting & Assistance Branch Staff Report
Revised Solid Waste Facilities Permit for
L and D Landfill
SWIS No. 34-AA-0020
January 11, 2016

Background Information, Analysis, and Findings:

This report was developed in response to the Sacramento County Environmental Management Department's (LEA) request for the Department of Resources Recycling and Recovery (Department) concurrence on the issuance of a proposed revised Solid Waste Facilities Permit (SWFP) for L&D Landfill, SWIS No. 34-AA-0020, located in Sacramento County and owned by the Fruitridge Land Co. and operated by the L&D Landfill, LP. A copy of the proposed permit is attached. This report contains Permitting & Assistance Branch staff's analysis, findings, and recommendations.

The proposed permit was initially received on July 16, 2015. On August 31, 2015 the operator submitted a request to the LEA to waive time per California Public Resources Code, Section 44008 and 44009 to allow time for California Environmental Quality Act (CEQA) compliance. On September 2, 2015 the LEA submitted an email to Department staff requesting withdrawal of the proposed permit. On September 3, 2015 Department staff returned the proposed solid waste facilities permit to the LEA. Subsequently, a new CEQA document was adopted by the LEA and a new proposed permit was received by Department staff on October 14, 2015. On December 8, 2015, the operator submitted a second request for the LEA and CalRecycle to waive time for consideration of the proposed permit until December 31, 2015. On December 22, 2015, the operator submitted a third request for the LEA and CalRecycle to waive time for consideration of the proposed permit until January 22, 2016. On January 11, 2016, the LEA submitted a new version of the proposed permit to reflect RSDI revisions, updated Closure Financial Assurance Documentation and Operating Liability Certification and a correction to the date of adoption for the 2015 Negative Declaration. Action must be taken on this permit no later than January 22, 2016. If no action is taken by January 22, 2016 the Department will be deemed to have concurred with the issuance of the proposed revised SWFP.

Proposed Changes

The following changes to the first page of the permit are being proposed:

	Current Permit (2012)	Proposed Permit
Permitted Operations	Solid Waste Disposal Site, Transfer/Processing Facility (MRF)	Solid Waste Disposal Site, Transfer/Processing Facility (MRF), Compostable Material Handling-Processing/Storing
Design Capacity (Disposal)	4,290,000 cubic yards	18,300,000 cubic yards

Other Changes include:

1. Updates to "Legal Description of Facility" section to address changes to Assessor's Parcel Numbers for recently consolidated parcels.
2. Updates to the "Prohibitions" section to clarify definitions of acceptable waste streams.

3. Updates to the SWFP “Documents” section to include the most recently prepared environmental document, Joint Technical Document amendments, updated closure financial assurance documentation and the operating liability certification.
4. Updates to “Self-Monitoring” section to include additional reporting requirements.
5. Addition of “LEA Conditions” (n-r) to describe and restrict the handling of a new waste stream; unprocessed curbside collected green waste (CCGW).

Key Issues

The proposed permit will allow for the following:

1. Addition of a new permitted operations category (Compostable Material Handling-Processing/Storing) to describe the acceptance of CCGW for onsite processing for use as Alternative Daily Cover (ADC).
2. The proposed permit has been updated to reflect the total design capacity for disposal rather than the remaining disposal capacity of the site. No additional disposal capacity is being proposed at this time.

Background:

L and D Landfill is located 8635 Fruitridge Road in Sacramento. In 1976, L and D Landfill Limited Partnership started operating a landfill at this site. L and D Landfill primarily receives construction and demolition (C&D) debris and other non-hazardous waste and is prohibited from accepting putrescible household wastes.

Findings:

Staff recommends concurrence in the issuance of the proposed revised SWFP. All of the submittals and findings required by Title 27 of the California Code of Regulations (27 CCR), Section 21685, have been provided and made. Staff has determined that the California Environmental Quality Act (CEQA) requirements have been met to support concurrence. The findings that are required to be made by the Department when reaching a determination are summarized in the following table. The documents on which staff’s findings are based have been provided to the Branch Chief with this Staff Report and are permanently maintained by the Waste Permitting, Compliance, and Mitigation Division.

27 CCR Sections	Findings	
21685(b)(1) LEA Certified Complete and Correct Report of Facility Information	The LEA provided the required certification in their permit submittal cover letter dated October 14, 2015.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(2) LEA Five Year Permit Review	A Permit Review Report was prepared by the LEA on August 26, 2015. The LEA provided a copy to the Department on August 27, 2015.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(3) Solid Waste Facility Permit	Staff received a proposed Solid Waste Facilities Permit on October 14, 2015.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685 (b)(4)(A) Consistency with Public Resources Code 50001	The LEA in their permit submittal package dated October 14, 2015, provided a finding that the facility is consistent with PRC 50001. Waste Evaluation &	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

27 CCR Sections	Findings	
	Enforcement Branch (WEEB) staff in the Jurisdiction Product & Compliance Unit found the facility is identified in the Countywide Siting Element and with the Countywide Integrated Waste Management Plan, as described in the memorandum dated July 22, 2015.	
21685 (b)(5) Preliminary or Final Closure/ Postclosure Maintenance Plans Consistency with State Minimum Standards	Engineering Support Branch staff in the Closure and Facility Engineering Unit found the Preliminary Closure/Postclosure Maintenance Plan is consistent with State Minimum Standards as described in their email dated December 16, 2015.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(6) Known or Reasonably Foreseeable Corrective Action Cost Estimate	Engineering Support Branch staff in the Closure and Facility Engineering Unit have found the written estimate to cover the cost of known or reasonable foreseeable corrective action is approved as described in their memorandum dated September 9, 2015.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685 (b)(7)(A) Financial Assurances Documentation Compliance	Permitting and Assistance Branch staff in the Financial Assurances Unit found the Financial Assurances documentation in compliance as described in the memorandum dated December 21, 2015.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685 (b)(7)(B) Operating Liability Compliance	Permitting and Assistance Branch staff in the Financial Assurances Unit found the Operating Liability in compliance as described in the memorandum dated December 21, 2015.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(8) Operations Consistent with State Minimum Standards	WEEB staff in the Inspections and Enforcement Agency Compliance Unit found that the facility was in compliance with all operating and design requirements during an inspection conducted on August 12, 2015. See compliance history below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(9) LEA CEQA Finding	The LEA provided a finding in their permit submittal package cover letter dated October 14, 2015, that the proposed permit is consistent with and supported by the existing CEQA documentation. See CEQA information below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21650(g)(5) Public Notice and/or Meeting, Comments	A Public Informational Meeting was held by the LEA on June 17, 2015. Written comments were received by LEA staff. Department staff received one written comment via email in opposition of the proposed permit revision. See Public Comments section below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
CEQA Determination to Support Responsible Agency's Findings	The Department is a responsible agency under CEQA with respect to this project. Permitting and Assistance Branch staff has determined that the CEQA record can be used to support the Branch Chief's action on the proposed revised SWFP.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

Compliance History:

WEEB staff in the Inspections and Enforcement Agency Compliance Unit conducted a pre-permit inspection on August 12, 2015 and found the facility in compliance with applicable state minimum standards and permit conditions.

WEEB staff conducted a second focused inspection on December 14, 2015 and found the facility in compliance with applicable state minimum standards and permit conditions. During the focused inspection, WEEB staff measured the depth of processed green material used as Alternative Daily Cover (ADC) at six randomly selected areas of the covered working face and measured the depth of processed construction and demolition waste and materials used as ADC at six randomly selected areas. The average of the sampled areas was found to be consistent with average depth requirements for ADC found in state minimum standards. The sampling results are summarized in the table below:

ADC material type	Sample 1 depth in inches	Sample 2 depth in inches	Sample 3 depth in inches	Sample 4 depth in inches	Sample 5 depth in inches	Sample 6 depth in inches	Average depth of ADC in inches	T27 section 20690
Processed green material	10.5	12.75	11.25	10	14.75	8	11.2	"...minimum compacted thickness of 6 inches and average compacted thickness of less than or equal to 12 inches."
Processed construction and demolition waste	8	10	11.5	7.5	11.75	10.75	9.9	"...minimum compacted thickness of 6 inches and average compacted thickness of less than 18 inches."

No violations were noted by the LEA during the period between December 2010 - December 2015.

Environmental Analysis:

Under CEQA, the Department must consider, and avoid or substantially lessen where possible, any potentially significant environmental impacts of the proposed SWFP before the Department concurs in it. In this case, the Department is a Responsible Agency under CEQA and must utilize the environmental document prepared by the Sacramento County Department of Environmental Review and Assessment (DERA), acting on behalf of the Sacramento County Environmental Management Department (LEA) as Lead Agency, absent changes in the project or the circumstances under which it will be carried out that justify the preparation of additional environmental documents and absent significant new information about the project and its impacts.

The proposed project is a revision to the existing Solid Waste Facilities Permit and would allow the following changes to the permit: Acceptance and on-site processing of a new waste stream:

unprocessed green material including curbside collected green waste, to use as alternative daily cover. The permit revision would limit the amount of unprocessed green waste accepted to 6,500 tons per month – 250 tons average per day, with an allowed peak daily limit of 400 tons per day to account for seasonal fluctuations. The unprocessed green waste tonnage limits are not additional, but are included in the facility's permitted tonnage of 4,125 tons per day. The average and peak daily tonnage limits for unprocessed green waste do not apply to materials currently received at the landfill including pre-processed green waste received for ADC, green waste brought by customers specifically for disposal, or landscape green waste accepted at the MRF for off-site transfer within 48 hours. These changes are supported by the following environmental document.

A Negative Declaration (ND)(SCH#2015082050) was adopted by the Sacramento County LEA on October 13, 2015. The project analysis concluded that there will be no significant impacts to the environment resulting from the project. The LEA has provided a finding that the proposed revised SWFP is consistent with and supported by the cited environmental document. Staff recommends that the Department, acting as a Responsible Agency under CEQA, utilize the ND as prepared by the Lead Agency in that there are no grounds under CEQA for the Department to prepare a subsequent or supplemental environmental document or assume the role of Lead Agency for its consideration of the proposed revised SWFP. Department staff further recommends the ND is adequate for the Branch Chief's environmental evaluation of the proposed project for those project activities which are within the Department's expertise and/or powers, or which are required to be carried out or approved by the Department.

The administrative record for the decision to be made by the Department includes the administrative record before the LEA, the proposed revised SWFP and all of its components and supporting documentation, this staff report, the ND adopted by the Lead Agency, and other documents and materials utilized by the Department in reaching its decision on concurrence in, or objection to, the proposed new SWFP. The custodian of the Department's administrative record is Dona Sturgess, Legal Office, Department of Resources Recycling and Recovery, P.O. Box 4025, Sacramento, CA 95812-4025.

Public Comments:

The project document availability, hearings, and associated meetings were noticed consistent with the SWFP requirements. The LEA held a public informational meeting on June 17, 2015, at the office of the Sacramento County Environmental Management Department. Eight individuals attended the meeting. Aside from the landfill owner and operator, all attendees were representatives of various regulatory agencies. The only comment offered was from Darryl Singleton of the Sacramento Metropolitan Air Quality Management District who stated that stationary source equipment permitting may be required for the proposed project. After the LEA's public informational meeting, the LEA received one comment letter from the public.

A petition, submitted by Gary Miller, resident of the Rosemont subdivision, was received by LEA staff on July 15, 2015. The petition, signed by 35 residents of the Rosemont community, describes the resident's strong opposition to the "approval" of the permit revision due to potential odors and devaluation of real estate values in the subject area.

In response, LEA staff spoke with Mr. Miller via telephone and addressed his concerns regarding potential odor issues and informed Mr. Miller that L & D Landfill will implement an odor impact minimization plan upon issuance of the revised solid waste facilities permit.

Department staff provided further opportunities for public comment during the CalRecycle Monthly Public Meetings on August 18, 2015, September 15, 2015, October 20, 2015, November 17, 2015 and December 15, 2015.

Comment: Department staff received an email on August 18, 2015 from Evan Edgar, with Edgar & Associates, Inc., outlining his planned testimony at the August 18, 2015 CalRecycle Monthly Meeting in opposition to the proposed revision. Mr. Edgar requested the Department not concur on the proposed permit revision due to alleged overuse of ADC material at L&D Landfill; “The JTD-2011 is not correct with actual operations” and “The landfill is not operating in accordance with the JTD.” Staff have included a summary of Mr. Edgar’s comments and Department responses below.

At the outset, the Department notes that the bulk of Mr. Edgar’s comments relate to how the operator is allegedly not complying with the previous RDSI.

Response: Both CalRecycle and LEA conducted inspections of the facility. The inspection reports do not document any violations or areas of concerns relative to failure to operate consistent with permit and corresponding 2011 RDSI relative to ADC.

Once a permit application is received, the LEA and subsequently CalRecycle evaluates the new RDSI to assure it adequately addresses the requirements set forth in 27 CCR 21600 (b) as specified by 27 CCR 21650 and 21685, respectively. In this case, the LEA and CalRecycle requested changes to the *new* RDSI to conform with 27 CCR 21600 (b) (C) – Cover, as well as other sections of the RDSI. The operator agreed to waive time to make these changes to the document and has subsequently corrected the deficiencies in the RDSI updated November 2015.

However, the operator’s compliance with the previous (2011) RDSI is not relevant to the Department’s concurrence on the current proposed permit revision package. Under PRC Section 44009, the Department may object to the issuance of a permit if the *permit itself* is not consistent with the state minimum standards *adopted by the Department*. Furthermore, for a disposal facility, the Department must ensure the facility is operating consistent with the state minimum standards listed in Subchapter 4 of Chapter 3 of Division 2 of Title 27 (commencing with Section 20510). The contents of an RDSI are not state minimum standards because they describe the design and operation a facility *according to the operator*. They are not standards adopted by the state. Mr. Edgar has provided no information to suggest that the proposed revised permit application, permit or associated *new* RDSI is inconsistent with state minimum standards or the requirements in 27 CCR 21600. Nor have recent pre-permit inspections by the LEA and the Department indicated that operations are inconsistent with the most recent RDSI. As such, the Department finds no grounds to object to the permit. If the operator does not operate according to the parameters of the current RDSI in the future, that will be an enforcement issue for the LEA as opposed to a permit concurrence issue.

Comment: Page 6 of the 2011 RDSI does not accurately describe operations in regards to daily and intermediate cover requirements. The RDSI states “The nominal ratio of daily cover depth to waste lift thickness is 1 foot: 5 feet. Approximately one sixth of the remaining gross airspace capacity or 715,000 cubic yards will be occupied by daily and intermediate cover”.

Response: Page 6 of the November 2015 RDSI has been updated to reflect the remaining gross airspace capacity. “Approximately one sixth of the remaining gross airspace capacity or 495,000

cubic yards will be occupied by daily cover. Due to the difference in bulk densities between the daily cover materials and the disposed waste, the ratio of cover to waste is expected to be between 24% and 55% cover as reported by weight (see appendix M).”

Comment: The JTD is required to estimate the range in tons of ADC materials that are anticipated to be used, based on waste types, applicable cover to waste volume ratios, applicable density conversion factors, engineering specifications, methods to minimize contamination, or other pertinent information.

Response: The November, 2015 amended RDSI includes revisions per Title 27, CCR, section 21590 to clarify the estimated range in tonnage for each material type of ADC anticipated to be used on a daily basis. RDSI, Pages 22, 23 and 24 and Appendix M provide this information, including calculations for cover to waste volume ratios and density conversion factors. The RDSI explains the cover to waste ratios and associated density conversion.

Comment: The November 2011 JTD indicates 16.7% of the remaining permitted capacity will be occupied by daily and intermediate cover. This is considered reasonable since a range of 10%-20% has been deemed acceptable. However, according the CalRecycle Home Page, from 2008-2014, L&D used 31% to 70% ADC to garbage ratio, averaging 52%. This also amounts to lost revenues to the Integrated Waste Management Account (IWMA).

Response: The Department performed an [ADC investigation in 2014](#). The report concluded L&D’s “ADC to waste disposed in 2012 was reported to be 70.2% of the total amount of material disposed by weight, approximately half of that amount was processed green material. Record review and site inspections found that 4,711 tons of the amount of ADC reported for 2012 was used on site but not as ADC. This reduced the cover to waste ratio to 65%. Some of the material received and reported as ADC in 2012 was stockpiled and was applied as ADC after 2012. Some of the stockpiled material was to be used as alternative intermediate cover and as a foundation layer for final cover. Based on the site inspection and record review, errors in reporting were found, but no indication of overuse was found.”

Since the material that was misreported was never intended to be disposed and was used as ADC/AIC or beneficial use there is no loss to the IWMA.

Additionally the assumption that 10%-20% of ADC to waste ratio is reasonable is not supported by the RDSI for this facility. Such assumptions are required to be justified in each facilities RDSI since it is known that this will fluctuated based on several variables, including density of waste and ADC, types of ADC used, frequencies ADC is used, size and thickness of active/working face, amount of waste disposed. Furthermore, the RDSI for this facility states that if the site was using soil, it historically would use 25% to 30% cover to waste.

Historically, L&D has had the following ADC to disposal ratio: 21% in 2008, 52% in 2009, 45% in 2010, 62% in 2011, and 70% in 2012. In 2014, the facility had an overall ADC to waste ratio of 45% of which greenwaste was 12%. The 1st quarter of 2015 showed further reductions.

CalRecycle has conducted extensive review of this facility relative to ADC use and found no evidence of overuse or failure to pay appropriate BOE fees. Most recently, on December 14, 2015, Permitting and Assistance Branch staff accompanied the WEEB staff on a focused inspection and took six random depth samples of processed green material used as ADC and six

random depth samples of processed construction and demolition waste and materials used as ADC. See the “Compliance History” section on page 4 of this staff report for results of WEEB’s pre-permit and focused inspection results.

Comment: The operator should revise the BOE forms and pay the BOEs fees for the amount of ADC overused.

Response: The department does not have evidence that the facility overused ADC, nor that they misreported their *disposal* numbers. See above response. The ADC Investigation Report did not note any overuse of ADC, rather misreporting. The type of misreporting, identification of materials used beneficially as ADC, would not require additional payment of disposal fees.

Comment: A JTD amendment dated September 2014 had not been provided as a result of a public records request to the Department.

Response: Compliance with the Public Records Act is not a consideration in the Department’s permit concurrence. Nevertheless, on August 18, 2015, staff verbally informed Mr. Edgar that the application for RFI amendment dated September 2014 was available for public viewing on CalRecycle’s SWIS (Solid Waste Information System) database documents page.

Similar comments to those outlined above were received from Mr. Evan Edgar at the November 17, 2015 and December 15, 2015 CalRecycle monthly meetings in regards to ADC overuse.